

COMMISSION OF THE EUROPEAN COMMUNITIES

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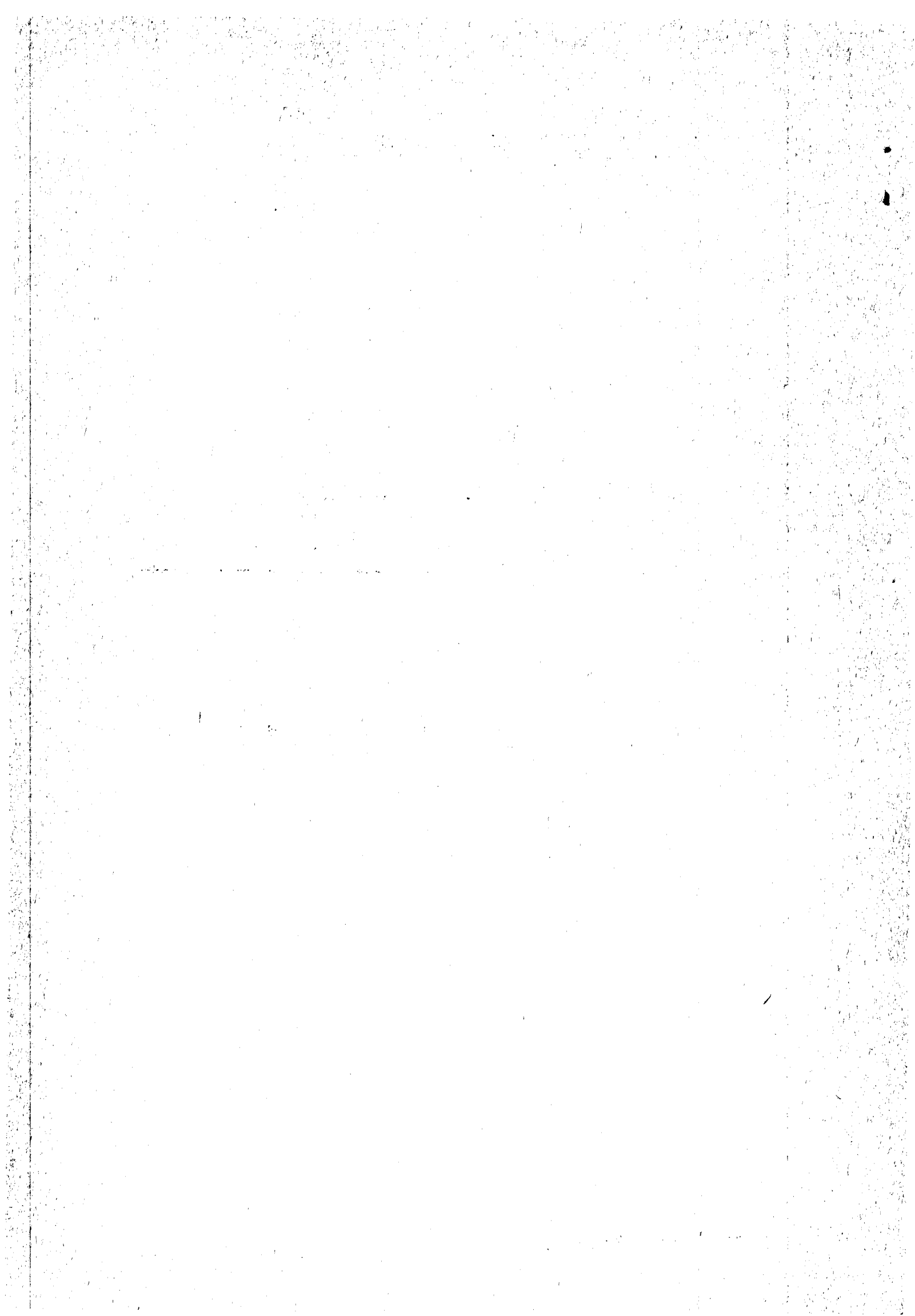
Brussels, 11 June 1974

DRAFT

DECISION OF THE EEC/TURKEY COUNCIL OF ASSOCIATION

authorising Turkey to retain certain customs duties of a fiscal nature

(submitted to the Council by the Commission)



Note for the Council

1. Under Article 16 of the Additional Protocol between the EEC and Turkey, Turkey retains the right to replace a fiscal customs duty by an internal tax in given conditions. It may also be authorised, on a request submitted before 1 January 1974, to retain these duties when the Council of Association finds that there are serious difficulties in the way of their replacement.

2. At the 55th meeting of the Committee of Association, held in Brussels on 30 October 1973, the Turkish Delegation made known its customs duties of a fiscal nature and asked for authorisation to retain certain of these fiscal duties in accordance with the provisions of Article 16, paragraph 4.

As regards fiscal duties which are not the subject of a request for retention, Turkey must firstly proceed with the alignment of its customs tariff with the Common Customs Tariff under Article 17 of the Additional Protocol, and secondly, carry out the tariff dismantling stipulated in Article 8 of the said Protocol. Under the provisions of Article 16, paragraph 3, however, it may convert these duties, reduced or aligned with the CCT, into an internal tax at the level of the basic duty of 23 November 1970, as defined in Article 10, in conformity with Article 44.

3. As regards the duties which Turkey has asked to retain, the Turkish Government has intimated that the immediate conversion of the duties concerned in the request into an internal tax would run up against administrative and budgetary difficulties.

These difficulties may be summarized as follows :

- (a) The replacement of these duties by an internal tax would necessitate the creation of new administrative units in order to exert effective control and avoid reduction in public revenue;

- b) The Turkish Government is planning a radical reform of its internal taxation system; it will be necessary to make far-reaching changes in the laws in order to include in them provisions concerning the levying of fiscal duties;
- c) Substitution of fiscal duties would have marked influence on price structure, which would in turn disturb the internal market. On the other hand, if Turkey were to reduce the rate of the internal tax in order to avoid the resultant price rises and disturbances, this would appreciably reduce the Treasury revenues.
4. However, the Turkish Government has confirmed that the goods (or similar goods), other than motor cars, in respect of which it seeks retention of the customs duty as a fiscal duty, are not manufactured in Turkey, or where they are so manufactured, they are subject to the same duties as the customs duties.
5. The conditions stipulated in Article 16, paragraph 4 of the Additional Protocol thus appear to be fulfilled as regards the authorisation to retain customs duties of a fiscal nature on the products other than motor vehicles which are the subject of the Turkish request.
6. As regards motor vehicles for the transport of persons (having a maximum of eight seats including that of the driver), there is a problem of effecting a balance between the taxation of imported vehicles, which are levied with the customs duty of 75 % ad valorem deemed by the Turkish delegation to be a customs duty of a fiscal nature, and those assembled in Turkey which are not subject to a similar internal tax.

Now, in accordance with a long-standing Community interpretation, a customs duty of a fiscal nature may only be levied on goods which are not manufactured in the importing country or for which no suitable alternative is manufactured therein, provided that such products, should they be manufactured, are subjected to an internal tax equal to the duty of a fiscal nature.

The expression "customs duties of a fiscal nature" in Article 16 of the Additional Protocol means duties which have a fiscal character not only in name but in practice, that is to say, duties which do not afford any protection for national industry.

On examination it appears that a significant proportion of the customs duty levied by Turkey on the vehicles in question does in fact afford such protection.

Consequently, as this duty does not have the character of a customs duty of a fiscal nature, the Council of Association cannot authorise Turkey under Article 16 to retain the duty in full.

In the circumstances the Commission proposes that the Council approves the draft Decision of the Council of Association set out in the Annex, which takes this interpretation into account and omits reference to the motor vehicles for which Turkey has made a request.

- Council of Association -

Draft

DECISION OF THE COUNCIL OF ASSOCIATION N° /74

authorising Turkey to retain certain
customs duties of a fiscal nature

THE COUNCIL OF ASSOCIATION,

Having regard to the Agreement creating an Association between the European Economic Community and Turkey, signed at Ankara on 12 September 1963 (1),

Having regard to the Additional Protocol between the European Economic Community and Turkey signed at Brussels on 23 November 1970, and in particular to Article 16 thereof (2),

Whereas Turkey has requested an authorisation to retain the duties of a fiscal nature on the goods listed in the Annex up to the end of the transitional period laid down in Article 10, Paragraph 2 of the Additional Protocol,

Whereas, under Article 16, Paragraph 4 of the Additional Protocol the Council of Association, where it finds that the replacement of a customs duty would give rise to serious difficulties, shall authorise that country, on receipt of a request lodged before the 1st January 1974, to retain that duty on condition that it is repealed by the end of the said transitional period.

(1) OJ N° 217, 29 December 1964, p. 3.687/64.

(2) OJ N° L 293, 29 December 1972, P. 3.

Whereas for these goods the replacement of customs duties of a fiscal nature by internal taxes is liable to cause a serious disturbance of the Turkish market,

Whereas Turkey is planning a radical reform of its internal taxation system; whereas if in these circumstances it were rapidly to convert its duties of a fiscal nature, it might after a relatively short lapse of time find itself compelled to carry out a second reform of its system; whereas such conversion in several stages would create unnecessary difficulties, particularly for the industries and administrations concerned,

Whereas the above considerations provide grounds for stating that for the products in question the replacement of the customs duties of a fiscal nature by internal taxes would give rise to serious difficulties in Turkey,

Whereas the present Decision does not prejudice subsequent application of Article 44 of the Additional Protocol,

HAS DECIDED AS FOLLOWS :

Article 1

1. Turkey shall be authorised to retain customs duties of a fiscal nature on the goods listed in the Annex hereto.
2. During the period of use of the authorisation, Turkey shall maintain in force the duties of a fiscal nature effectively applied on the goods concerned as respects third countries on the date of the signature of the Additional Protocol.

Article 2

This Decision is addressed to Turkey.

Done at Brussels,

1974.

For the Council of Association

The President

A N N E X

Rates of customs duties of a fiscal nature referred to in Article 1

Heading N° of Turkish customs Tariff at 23.11.1970	Description	Rate of duty ad valorem or in Turkish pounds (L.T.) per 100 kg net weight
1	2	3
27.10	<p>PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, OTHER THAN CRUDE; PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED, CONTAINING NOT LESS THAN 70 % BY WEIGHT OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC CONSTITUENTS OF THE PREPARATIONS :</p> <p>ex a) Light oils having a closed flash point of below 30° C :</p> <p style="padding-left: 40px;">- Motor spirit</p> <p>ex b) Medium oils having a closed flash point in an airtight chamber of 30° C or over, but below 55° C, or those having a closed flash point of 55° C or over of which more than 65 % (including losses) distils at temperatures up to 250° C :</p> <p style="padding-left: 40px;">- Kerosene</p> <p>c) Heavy oils having a closed flash point of 55° C or over :</p> <p style="padding-left: 40px;">ex 1. Fuel distillates, of which 80 % distils without undergoing cracking :</p> <p style="padding-left: 80px;">- Gas oil</p>	<p style="text-align: right;">19.15 L.T.</p> <p style="text-align: right;">7.80 L.T.</p> <p style="text-align: right;">8.75 L.T.</p>

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Heading N° of Turkish customs Tariff at 23.11.1970	Description	Rate of duty ad valorem or in Turkish pounds (L.T.) per 100 kg net weight
1	2	3
<p>27.10 (continued)</p> <p>- 41</p> <p>- 42</p> <p>- 43</p> <p>- 50</p> <p>ex 27.11</p> <p>- 30</p> <p>ex 27.13</p> <p>- 10</p> <p>28.C3</p> <p>- 21</p> <p>- 22</p>	<p>c) ex 2. Residual fuels, of which less than 80 % distils without undergoing cracking :</p> <p>- Light fuel oil</p> <p>- Medium fuel oil</p> <p>- Heavy fuel oil</p> <p>3. Engine oils (including those from which the characteristic colour and odour have been removed)</p> <p>PETROLEUM GASES AND OTHER GASEOUS HYDROCARBONS :</p> <p>- Petroleum gases in liquid form</p> <p>PARAFFIN WAX, PETROLEUM OR SHALE WAX, SLACK WAX, OZOKERITE, LIGNITE WAX, PEAT WAX AND OTHER MINERAL WAXES, WHETHER OR NOT COLOURED :</p> <p>- Paraffin wax</p> <p>CARBON (CARBON BLACK, ACETYLENE BLACKS, ANTHRACENE BLACKS, OTHER SMOKE BLACKS, ETC.) :</p> <p>ex b) Other :</p> <p>- Carbon black</p> <p>- Acetylene blacks</p>	<p>7.50 L.T.</p> <p>7.50 L.T.</p> <p>7.50 L.T.</p> <p>8.00 L.T.</p> <p>15 %</p> <p>20 %</p> <p>30 %</p> <p>30 %</p>

Heading N° of Turkish customs Tariff at 23.11.1970	Description	Rate of duty ad valorem or in Turkish pounds (L.T.) per 100 kg net weight
1	2	3
29.37 - 39	LACTONES AND LACTAMS; SULTONES AND SULTAMS : ex c) Other : - Caprolactam	15 %
33.01 - 22 - 23 - 24 - 25 - 26 - 29	ESSENTIAL OILS (TERPENELESS OR NOT); CONCRETES AND ABSOLUTES; RESINOIDS : ex b) Other : - Of mint - Of citronnella - Of lemon - Of melissa - Of ylang-ylang - Other	100 % 25 % 100 % 100 % 100 % 100 %
33.04	MIXTURES OF TWO OR MORE ODCRIFEROUS SUBSTANCES (NATURAL OR ARTIFICIAL) AND MIXTURES (INCLUDING ALCOHOLIC SOLUTIONS) WITH A BASIS OF ONE OR MORE OF THESE SUBSTANCES, OF A KIND USED AS RAW MATERIALS IN THE PERFUMERY, FOOD, DRINK OR OTHER INDUSTRIES	150 %

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Heading N° of Turkish customs Tariff at 23.11.1970	Description	Rate of duty ad valorem or in Turkish pounds (L.T.) per 100 kg net weight
1	2	3
40.01 - 10 - 21 - 22 40.02 - 11	NATURAL RUBBER, BALATA, GUTTA-PERCHA AND SIMILAR NATURAL GUMS, UNMANUFACTURED (INCLUDING LATEX, WHETHER OR NOT STABILIZED): a) Crêpe ex b) Other : - Latex - Smoked sheets SYNTHETIC RUBBERS, INCLUDING SYNTHETIC LATEX, WHETHER OR NOT STABILIZED; FACTICE DERIVED FROM OILS : ex a) Synthetic rubber and latex, for the manufacture and retreading of rubber tyres and inner tubes for all types of motor vehicle (subject to the conditions and quantities to be laid down by the Ministry of Industry) : - Synthetic rubber	40 % 22 % 22 % 10 %